

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 13488, of Elisabeth Scott Porter, pursuant to Paragraph 8207.11 of the Zoning Regulations, for a variance from the prohibition against allowing a subdivision which will create a lot having no street frontage (Sub-section 1302.2) in an R-3 District at the premises 1515 - 29th Street, N.W., (Square 1267, Lots 288 and 289).

HEARING DATE: May 13, 1981
DECISION DATE: June 3, 1981

FINDINGS OF FACT:

1. The subject property is located in an R-3 District on the east side of 29th Street between P and Q Streets.
2. Record lot 288 is now divided into two assessment and taxation lots, 836 and 837, as shown on Exhibit No. 23 of the record. Record lot 289 is also a part of assessment and taxation lot 836.
3. Lot 836 is owned by the applicant. Lot 837 is owned by the Mehlman Development Corporation.
4. That portion of lot 288 lying within lot 836 is 96.57 feet deep and 40.63 feet wide. It is improved with a single family dwelling known as 1515 29th Street, N.W. It is also improved with a one story garage lying south of the building.
5. That portion of lot 288 lying within lot 837 is twenty feet wide and twenty-six feet deep. It has no street frontage and is improved with a garage. Vehicular access to the garage is by way of a public alley connecting to 28th Street.
6. Lot 289 is unimproved and is used as a garden by the applicant.
7. The applicant proposes to renovate the existing garage, add a second story and connect it to the main building. The second story would be used as a guest room. The entire combined structure would remain a single family dwelling.
8. In order to secure a building permit, the applicant seeks to have what is now known as lot 836 created as a record lot. This would be done by combining all of lot 289 with that part of lot 288 owned by the applicant.

9. That part of lot 288 not owned by the applicant would remain as lot 837. For record purposes, it would be known as "of 288."

10. A variance is required from the provisions of Sub-section 1302.2, since that portion of the remainder of existing lot 288 known as lot 837 will have no street frontage.

11. Historically, lot 837 has never been an independent record lot. It became part of lot 288 when the applicant owned both properties. Subsequently, lot 837 was sold to the Mehlman Development Corporation.

12. The remaining portion of lot 288, known as lot 837, would not constitute a record lot. A record lot could not be obtained for that property without approval of the Board of Zoning Adjustment by way of a variance. Such relief is not requested in this application.

13. Advisory Neighborhood Commission - 3A, by letter dated May 8, 1981, opposed the creation of a record lot having no street frontage. However, noting that the remaining portion of lot 288 will not be considered to be a record lot, the ANC had no objection to the variance.

14. The Citizens Association of Georgetown, by letter dated May 13, 1981, and by testimony at the hearing, advised the Board of its long-standing policy against the construction of alley dwellings and the creation of buildable lots having no street frontage.

15. There were numerous letters on file opposed to the creation of alley lots.

16. The owners of lot 837 appeared at the hearing and expressed concern over the effect of the application on their lot. The Board finds that the granting of the requested relief will not in any manner adversely affect the present use of Lot 837 and furthermore, will not preclude any use now otherwise permitted. The Board notes that because of the lot's present size and location, relief must be granted in order to utilize the premises for purposes other than a garage.

17. As to the other objections to the application, as set forth in Finding of Fact No. 12, lot 837 would not become a record lot, and could not be built upon unless a variance was sought from the Board.

CONCLUSIONS OF LAW AND OPINION:


Based on the findings of fact and the evidence of record, the Board concludes that the requested variance is an area variance, the granting of which requires the showing of an exceptional or extraordinary condition of the property which creates a practical difficulty for the owner. The Board concludes that the existence of the subject site as a portion of one record lot 288 and the entirety of a second record lot 289, improved by an existing single family house and an existing garage structure, with the remaining portion of record lot 288 in separate ownership without street frontage, constitutes an exceptional and unusual condition for the purposes of variance relief. Building permits for renovation of the two existing structures cannot be issued without a subdivision placing all of the applicant's property in a single record lot. Therefore, a unique condition exists, and a practical difficulty would result to the owner if the proposed variance is not granted.

The Board concludes that it has accorded to the ANC the "great weight" to which it is entitled. The Board concludes that the requested relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations and maps. It is therefore ORDERED that the application is GRANTED.

VOTE: 4-0 (Walter B. Lewis, William F. McIntosh, Connie Fortune and Charles R. Norris to GRANT; Douglas J. Patton not voting, having recused himself).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY: _____


STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER: 1 SEP 1981

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UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF LICENSES, INVESTIGATIONS, AND INSPECTIONS.